



County of Chautauqua Industrial Development Agency

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October 28, 2020

Ms. Alison Devine  
EPA Region 2  
290 Broadway; 18<sup>th</sup> Floor  
New York, New York 10007

**RE: FY20 USEPA Brownfield Assessment Grant Proposal – Narrative Information Sheet**

Dear Ms. Devine:

The Chautauqua County Industrial Development Agency (CCIDA) respectfully requests \$800,000 in brownfield multipurpose grant funding from the United States Environmental Protection Agency's Fiscal Year 2021 Brownfields Program. With these funds, the CCIDA proposes to complete community outreach; augment and update the County's brownfield inventory; complete brownfield planning; prepare up to 50 Phase I and 8 Phase II Environmental Site Assessments (ESAs); and remediate two brownfield sites. CCIDA, in conjunction with Chautauqua County and the Cities of Dunkirk and Jamestown, has previously engaged in brownfield planning activities such as preparing a county-wide brownfield inventory and creating three area-wide brownfield revitalization plans. These plans were created under New York State's Brownfield Opportunity Area Program, which provides grants for planning, market and infrastructure analysis, and conceptual design.

The CCIDA has developed a prioritized inventory of 387 brownfield sites throughout 42 municipalities with the goal of reuse of which is anticipated to catalyze revitalization of the community. The primary objective of the CCIDA's brownfield strategy is to encourage new business investment through the cleanup and redevelopment of contaminated commercial and industrial properties. During the implementation of this EPA grant, the CCIDA intends to position brownfields with the goal of transferring these sites to private developers. The CCIDA will work with the private developers to foster remediation and redevelopment of the sites in accordance with the existing and to-be-created brownfield reuse plans.

Private interest in brownfield redevelopment exists, in part owing to New York State's brownfield cleanup tax incentive program; however, valuable environmental information is lacking even for the highest priority sites within Chautauqua County. The CCIDA does not have the resources and governance structure to complete the environmental assessment activities, brownfield planning, marketing or remediation necessary to foster interest in the brownfield sites. Therefore, this assessment grant is a critical component to the further advancement of brownfield redevelopment and will work to increase health and welfare of County residents.

The following presents the information required in this cover letter:

1. Applicant Identification: Chautauqua County Industrial Development Agency  
201 West Third Street, Suite 115  
Jamestown, NY 14701  
DUNS Number: 825214302
2. Funding Requested:
  - a. Grant Type: Multipurpose
  - b. \$800,000
3. Location: Chautauqua County, New York



County of Chautauqua Industrial Development Agency

4. Contacts:

a. Project Director:	b. Highest Ranking Elected Official:
<b>Name:</b> Nathan Aldrich <b>Phone:</b> (716) 785-7172 <b>Email:</b> aldrichn@co.chautauqua.ny.us <b>Address:</b> 201 West Third Street, Suite 115 Jamestown, NY 14701	<b>Name:</b> County Executive Paul M. Wendel, Jr. <b>Phone:</b> (716) 753-4000 <b>Email:</b> wendelp@co.chautauqua.ny.us <b>Address:</b> 3 N Erie Street Mayville, NY 14757

5. Population: Chautauqua County (129,000); the Cities of Dunkirk (11,756) and Jamestown (29,058); and 40 smaller villages and towns (populations less than 10,000)

6. Other Factors Checklist:

Other Factors	Page #
Community population is 10,000 or less.	
The applicant is, or will assist, a federally recognized Indian tribe or United States territory;	1, 3
The priority brownfield site(s) is impacted by mine-scarred land.	
The priority site(s) is adjacent to a body of water (i.e., the border of the priority site(s) is contiguous or partially contiguous to the body of water, or would be contiguous or partially contiguous with a body of water but for a street, road, or other public thoroughfare separating them).	1,2, 3
The priority site(s) is in a federally designated flood plain	1, 3
The reuse of the priority site(s) will facilitate renewable energy from wind, solar, or geothermal energy; or will incorporate energy efficiency measures	3
30% or more of the overall project budget will be spent on eligible reuse planning activities for priority brownfield site(s) within the target area.	

7. Letter from State Authority: Attached

The CCIDA, Chautauqua County, and the Cities of Dunkirk and Jamestown have already completed the extensive planning efforts needed to inventory brownfield sites and identify those priority most critical to the successful revitalization of the community and is continuing those efforts with advancing the various brownfield reuse plans across the County.

Thank you for your consideration of this request. If you have any questions concerning this application, please feel free to contact me at your earliest convenience.

Sincerely,

Mark Geise

Deputy County Executive for Economic Development  
Chief Executive Officer of the CCIDA

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Bureau of Program Management  
625 Broadway, 12th Floor, Albany, NY 12233-7012  
P: (518) 402-9764 | F: (518) 402-9722  
www.dec.ny.gov

October 2, 2020

Mark Geise  
Chief Executive Officer  
County of Chautauqua Industrial Development Agency  
201 West Third Street, Suite 115  
Jamestown, NY 14701

Dear Mr. Geise:

This is to acknowledge that the New York State Department of Environmental Conservation (DEC) received a request from C&S Companies on behalf of County of Chautauqua Industrial Development Agency (CCIDA), dated September 23, 2020, for a state acknowledgement letter for a Federal Year 2021 United States Environmental Protection Agency (USEPA) Brownfields grant.

I understand that CCIDA plans to submit a Brownfield Multipurpose grant application for in the amount of \$800,000. Funds will be used to conduct Phase I and II investigations, cleanup activities, and revitalization planning at properties throughout Chautauqua County. Funding would also be allocated to conduct associated reuse planning and community involvement activities.

DEC encourages initiatives to redevelop brownfields with the goal of mitigating any environmental and health impacts that they might pose.

Sincerely,



Bernadette Anderson  
Chief, Policy and Planning Section  
Bureau of Program Management

cc: T. Wesley, USEPA Region 2  
A. Devine, USEPA Region 2  
M. Cruden, DEC Albany  
A. Caprio, DEC Region 9  
S. Radon, DEC Region 9  
E. Phillips, C&S Companies



Department of  
Environmental  
Conservation

## **1. PROJECT AREA DESCRIPTION AND PLANS FOR REVITALIZATION**

### **1.a. Target Area and Brownfields**

#### **1.a.i. Background and Description of Target Area**

The applicant is the Chautauqua County Industrial Development Agency (CCIDA). The CCIDA is an economic development organization authorized and empowered by the State of New York to make Chautauqua County a better place to work, live, and visit. The CCIDA facilitates development by attracting new businesses, while promoting the retention and expansion of existing businesses across the County.

Chautauqua County is a rural county in Western New York bordered by Lake Erie and the State of Pennsylvania to the west and south, respectively. In addition to Lake Erie on its western border, the County's important waterways include tourist destination Chautauqua Lake, known for its excellent fishing; the Chadakoin River running through the heart of the City of Jamestown; and Conewango, Cattaraugus and Cassadaga Creeks, all known for their fishing opportunities. The River and Creeks are located within Federal Floodplains, and are prone to flooding.

Chautauqua County is comprised of two cities, 27 towns, 13 villages, as well as more than a dozen hamlets and other smaller communities. Additionally, the County contains a portion of the Seneca Nation of Indians' Cattaraugus Reservation. The County experienced population decline, an aging population and the loss of its youth to urbanized areas. Its population peaked at 147,305 in 1970 and, according to US Census estimates, declined approximately -12% (129,000 people) in 2019. The population is concentrated in two post-industrial and waterfront cities, Dunkirk and Jamestown, with populations of 11,756 and 29,058, with the remainder in small towns and villages.

For much of the 19<sup>th</sup> and 20<sup>th</sup> centuries, the County benefited from abundant natural resources, a strong manufacturing sector, and a well-trained workforce. The County was blessed with dense forests, and the economy of the southern portion of the County was based on furniture manufacturing. Jamestown was known across the country as a leader in furniture production. The northern portion of the County took advantage of its location adjacent to Lake Erie to develop a robust steel manufacturing sector. Industries that relied on steel, such as locomotive manufacturing thrived. However, the County's manufacturing economy was eviscerated by global competition, changing consumer tastes, and technological advances. Tremendous job loss occurred and the median income of the County's populace is well below national and state levels and the percentage of families living in poverty has increased. Along with this extraordinary job loss, the closure of these industries has also left a County-wide legacy of brownfield sites.

Although some industries remain viable in the County, including tourism, farming, and food processing, each is negatively impacted by the presence of brownfields. The presence of dilapidated industrial buildings are eyesores and visitors to the area notice these blighted sites, which reduces the County's ability to attract new residents as well as more tourists. The specter of contamination at the sites not only poses a health risk to workers and nearby residents, but the perception of tainted foods reduces demand for food from those farms and processing facilities.

The Grant Target Area is comprised of the entire County with a focus on the Cities of Dunkirk and Jamestown. The County reviews its list of tax delinquent properties each year and forecloses on only those not identified as brownfield sites. Financial resources are necessary but not currently available to assess and/or remediate these brownfield sites, so the tax delinquent sites are flagged and set aside for future consideration.

Significant New York State funded brownfield planning efforts have occurred in the Cities of Dunkirk and Jamestown under the Brownfield Opportunity Area Program (BOA) because each City has a high concentration of brownfield sites. These plans have identified potential reuse

opportunities using community input and market analysis and include a list of highest priority brownfield sites and suggestions for reuse. The Dunkirk Brownfield Opportunity Area covers six focus areas, with 500 acres being identified as brownfield, vacant, or underutilized properties. Jamestown has two Brownfield Opportunity Areas that encompass 1,354 acres and 64 brownfield sites, as well as 100s of vacant or underutilized sites. Reuse of these sites is critical to the revitalization of these small cities.

#### **1.a.ii. Description of the Priority Brownfield Site(s)**

Using a list of tax delinquent properties, environmental databases, and brownfield planning studies, the CCIDA has developed a brownfield inventory that contains 387 sites totaling 1,333 acres across the County. These sites range from tiny gas station sites to large industrial facilities. Many of the brownfields exist at important intersections or other critical locations, and most are located adjacent to residences owing to historical development patterns. The CCIDA has implemented prioritization systems that included market analyses and community involvement undertaken during the brownfield planning projects in Jamestown and Dunkirk (BOA projects) and expanded those efforts to include the areas outside the Brownfield Opportunity Areas.

<b>Site Name</b>	<b>Acres</b>	<b>Former Land Use</b>	<b>Potential/Known Contaminants</b>	<b>Vacant</b>
Niagara Motors	2.2	Marine engine manufacturing	VOCs, SVOCs Petroleum	X
Dunkirk Specialty Steel	10.2	Steel manufacturing	VOCs, SVOCs, metals	X
Former Al-Tech Steel	49.4	Steel manufacturing	VOCs, SVOCs, metals	Partially
Former NRG Plant	83.5	Coal-fired generating plant	Petroleum, VOCs SVOCs, metals	X
Former Vineyard Research Lab	30.3	Chemical Testing Vineyard	Pesticides, metals	X
Former Con-Agra Facility	5.2	Food processing plant	Petroleum, pest-icides, metals	X
Anderson Cleaners	0.14	Dry cleaner	VOCs	X
Reliable Garage	0.1	Auto Repair	VOCs, SVOCs, petroleum	X
Jamestown Royal	1.9	Upholstry manufacturing	VOCs, SVOCs, metals	X
Art Metal	4	Office furniture manufacturing	VOCs, SVOCs, metals	Partially
Broadhead Mills	3.3	Textile manufacturing	VOCs, SVOCs, metals	X
United Lumber	2.0	Sash and door manufacturing	VOCs, SVOCs, metals, PCBs	X

All of the sites listed above are a priority for reuse within Chautauqua County. The brownfield planning studies mentioned above (Page 1) used community and Steering Committee input to identify a number of the above sites to be “strategic” and catalytic to areas around them due to location and development potential. The brownfield sites are located throughout the County but are typically close to key intersections, community hubs and gateways, residential areas, important commercial areas, waterbodies and state and federal flood plains (such as Lake Erie,

Chautauqua Lake, Chadakoin River), and/or tourist attractions. Because these sites have the most potential for positive impact, the below priority sites will be considered for work under this grant.

### **1.b. Revitalization of the Target Area**

#### **1.b.i. Overall Plan for Revitalization**

Chautauqua County's existing planning for revitalization consists of two primary components: NYS-funded Brownfield Opportunity Area Programs that were previously completed in Dunkirk and Jamestown, and the County-wide Chautauqua County Economic Development Strategy. The BOA planning efforts used market, infrastructure analysis, and community input to identify reuse opportunities for inventoried brownfield sites and select those projects that are most strategic to catalyzing the overall revitalization of the community. The EPA funds would be targeted to achieve the goals from Dunkirk's brownfield planning efforts including: strengthening the downtown business district; promoting the maritime heritage and waterfront opportunities; linking local and regional trail systems; creating tourist destinations through celebrating history, arts, and diversity; and promoting mixed use to support a vibrant, walkable community.

Similarly, Jamestown's brownfield planning efforts identified the following goals: making the riverfront a regional destination; increasing tourism; improving the connectivity and integration of the River and park system with the local neighborhoods, Downtown, and Chautauqua Lake; and addressing the redevelopment of brownfield and underutilized sites located throughout the City. The plans indicate that brownfields play a role in not only the final goal but present opportunities to address all of these items.

In August 2020, Chautauqua County finalized a comprehensive, countywide Economic Development Strategic Plan. Among several recommendations are priorities to develop and market underutilized and brownfield sited for productive economic purposes. These recommendations include industrial, commercial, and residential redevelopment; green energy including wind and solar power; and the creation of green space and the extension of existing trail systems. This grant will advance this recommendation by helping to facilitate the assessment and remediation of brownfield sites for new productive purposes that will allow sustainable growth throughout the County. In doing so, this project would accomplish other priorities such as the removal of blight, the growth of the tax base, and the creation of new investment and jobs in the community. These efforts will help improve the quality of life for residents in the County's smaller communities, as well as in the Seneca Nation of Indians' Cattaraugus Reservation.

#### **1.b.ii. Outcomes and Benefits of Overall Plan for Revitalization**

Specific reuse plans for strategic sites were created during the Brownfield Opportunity Area planning studies. This NYS program is designed to create reuse plans for large areas with concentrations to brownfield sites, which perfectly matches the use of EPA funds for ESAs. Past planning efforts have identified particular needs to be filled in the community. For example, the primary gateway to the City of Dunkirk is from the interstate to the east. Unfortunately, the former Niagara Motors Site sits at the entrance to the community and is an overgrown, vacant, brownfield site, a terrible welcome to anyone entering the community. Therefore, the redevelopment of this property is a high priority in the planning documents.

Brownfield planning also identified a need for pedestrian and bicycle connections throughout the County due to the lack of automobile ownership and very limited available public transportation. The communities in Jamestown and Dunkirk requested that these connections include green corridors and pocket parks. Large, former manufacturing sites and closed landfills provide excellent opportunities to create green connections, and this brownfield grant would be used to determine which routes are most feasible.

In New York State, brownfields within designated Brownfield Opportunity Areas, such as in Jamestown and Dunkirk, that are remediated and redeveloped in conformance with the Cities' brownfield plans receive greater tax credits. This is a critical benefit of those plans that helps to attract private investment in brownfields. Two programs currently exist to help make private financing of brownfield reuse a reality: the NYS Brownfield Cleanup Program (BCP) and Opportunity Zone (OZs). The BCP provides a release of liability as well as significant tax incentives for developers that cleanup and reuse brownfields, including up to 50% of the remediation costs and 24% of the construction costs. Due to its financial woes, the County contains seven Opportunity Zones, which makes the investment in brownfields within the OZs more attractive. The County intends to complete Phase I/II ESAs using the EPA grant at strategic sites and submit the information gained from those studies to private developers, using the incentives of the BCP and OZs to enhance the appeal. Section 3c of this application identifies the quantifiable outcomes, such as acres of brownfield remediated and reused, expected from these efforts.

### **1.c. Strategy for Leveraging Resources**

#### **1.c.i. Resources Needed for Site Reuse**

The CCIDA has recently received more than \$12 million in federal, state and private foundation grants to promote economic development and infrastructure improvements. This includes a July 2020 award of \$10.5 million from the US Economic Development Administration (EDA) from the CARES Act for the establishment of a Revolving Loan Fund (RLF) to aid in the economic recovery in the wake of the coronavirus (COVID-19). The City of Jamestown was awarded \$10 million in NYS Downtown Revitalization Initiative grants in 2016, as well as several million dollars in DOT federal transportation grants. The City of Dunkirk has been awarded more than \$8.4 million in state and federal grants, including a NYSDEC brownfield cleanup grant. These initiatives will help sustain the CCIDA's momentum toward site reuse and revive the community.

Various brownfield reuse planning efforts have been completed throughout the County, and these efforts have created an increase in interest by private developers. A benefit of the BOA Program is that any project proposed within the reuse plan automatically scores higher in all NYS grant programs, which significantly increases the ability to complete community-backed projects.

Lastly, brownfields remediated under the NYS Brownfield Cleanup Program (discussed in 1.b.ii) are eligible for additional tax credits as long as the reuse conforms to the BOA reuse plan. Therefore, the County is better able to attract privately funded redevelopment opportunities. The CCIDA and its primary partners (Cities of Dunkirk and Jamestown, Chautauqua County, and the Chautauqua County Partnership for Economic Growth) are eligible to receive NYS, Federal, and foundation funding which will stimulate the availability of additional funds for both environmental assessment, site remediation, and reuse. Potential funding resources include: Empire State Development Grant Funds; federal and state historic tax credits, US Department of Housing and Urban Development funds, NYSDEC cleanup program; NYSDOS BOA and LWRP funding; ARC Power Initiative, NYSERDA Alternative Energy grants, and private sources.

#### **1.c.ii. Use of Existing Infrastructure**

An inventory of brownfield sites in the County contains information relative to the availability of water, sewer, electric, and broadband internet. The County's brownfield sites are generally well-served by public water, sewer services, and utilities. Promoting the remediation and reuse of these sites advances the County's strategy of promoting smart growth. The utility network was designed to service a much larger population and number of businesses, and is now underutilized. The water filtration plants and the wastewater treatment plants across the County are oversized, as they were designed for significantly larger capacity to accommodate a bigger



population and substantially more industries. The reuse sites will improve the use and efficiency of the existing network and facilities. The reuse of brownfields will also reduce the pressure to develop green fields in outlying areas and extend utility systems. Because many brownfields are located within the cores of the County's communities, following reuse of brownfield sites, the populace has indicated a desire to frequent businesses in those community cores.

## **2. COMMUNITY NEED AND COMMUNITY ENGAGEMENT**

### **2.a. Community Need**

#### **2.a.i. The Community's Need for Funding**

The CCIDA needs financial support to foster the remediation and reuse of the brownfield sites located throughout Chautauqua County. The loss of furniture and steel manufacturing industries and associated commercial activity throughout the County in the late 1900s led to a significant decline in the local tax base, jobs, economic opportunities, physical, and socioeconomic conditions. This loss is demonstrated by the fact that Chautauqua County lost approximately 15% of its population since the early 1980s and the population continues to decrease (-5.9% from 2010 to 2019) with no evidence of population stabilization or increase in the coming years.

With nearly a fifth of the County's population living in poverty (18.3%) and many in close proximity or direct neighbors of potentially contaminated now-vacant industrial sites, it is clear that new efforts are required. According to 2018 US Census data, the County's median income (\$45,332) is nearly an incredible \$22,000 lower than the NYS average (\$67,274). The County also has over double the minority percentage of the state of Black and Latino populations, many residing in areas close to vacant brownfields and blighted properties. As a result of these socioeconomic dynamics, local public dollars are scarce. Facing significant challenges with blight it is now crucial that new dollars be brought into the community to energize local efforts to plan and build a better future as the County's and CCIDA's budgets are already stretched thin. An EPA assessment grant would be pivotal in forging and fueling the community's efforts to overcome significant challenges of blight. The grant will help with community connections and, since the population is low-income and there is a lack of public transportation, this could give more residents more opportunities with access to healthy food, jobs, and community services.

#### **2.a.ii. Threats to Sensitive Populations**

##### **(1) Health or Welfare of Sensitive Populations**

Chautauqua County is designated as a Health Resources & Services Administration (HRSA) Medicaid Eligible Health Professional Shortage Area (HPSA). Chautauqua County has six federal HPSA designations including two primary care, two dental health and two mental health. As well as being underserved, the County's population has a higher number of residence who are 65+ (20.7% compared to NY's rate of 16.9%) and a larger population of children who live below the federal poverty level (25%). Therefore, sensitive age related populations encompass more than 40% of the local population.

The County's early development patterns placed the majority of the housing stock surrounding major industries that were employment centers in the early 1900s. One example is the Al-Tech Steel complex, many portions of which are vacant and are adjacent to single-family homes, occupied by low-income families on Lucas and Willowbrook Avenues. This large brownfield site potentially increases health risks of low-income populations already threatened by living in older housing stock including possible higher levels of lead and asbestos.

Aging populations prefer to age in place and hope to stay in their community. With 16.9% of County's population is over the age of 65, being within close proximity to potentially contaminated sites puts senior populations at risk for increases in disease and shorter life spans.



Approximately 20.2% of the County's population is under 18 years old, and the assessment and remediation of brownfield sites will result in a much safer environment for many families. The transformation of these sites will not only remove the potential contaminants but also provide improved housing, new job opportunities, and amenities for the nearby residents.

Chautauqua County has three USDA-designated "food desert" areas including sections of the cities of Dunkirk and Jamestown. Over a fifth of the county's population live in poverty, and according to the 2013-2017 American Community Survey 10.9% of households do not have access to a vehicle (this number increases to 16.3% in the City of Dunkirk and 20.4% in the City of Jamestown). This puts sensitive populations such as seniors and those with small children at risk with low access to a supermarket or large grocery store.

## **(2) Greater Than Normal Incidence of Disease and Adverse Health Conditions**

Chautauqua County's populations suffer from significant incidence of adverse health conditions. Within the County, heart disease is the leading cause of premature death. Heart disease, cancer, chronic lower respiratory diseases and stroke rates in Chautauqua County are all higher than the NY state average.

- **Lead:** Childhood lead poisoning is a concern in Chautauqua County where 70.2% of homes were build prior to 1970. The incidence of a confirmed elevated blood lead levels ( $\geq 10$  mg/dl) among children less than 72 months old was 12.9 per 1,000, which was higher than the NYS rate of 4.3.
- **Air pollution:** The Chautauqua County air pollution particulate matter is measured at 9.6, higher than the NYS measurement of 8.5. Ambient air pollution has several negative health outcomes including decreased lung function, asthma, chronic bronchitis, and other pulmonary issues.
- **Chronic lower respiratory diseases** is the third leading cause of death in Chautauqua County. The county has a higher rate of chronic lower respiratory diseases (44/100,000) than NYS's average (29/100,000).
- **Asthma:** The NYSDOH eBRFSS data from 2016 indicate that 11.2% (age-adjusted) of adults in Chautauqua County had current asthma, compared to 9.6% in NYS.
- **Obesity:** From 2014 to 2016, 15.7% of Chautauqua County children in WIC ages 2-4 were obese, which was higher than New York State rate of 13.9%. The Chautauqua County Heath Assessment 2019-2021 states that the children and adolescents obesity rate is 20.7% compared to the NYS rate of 17.2% and the adult overweight/obesity rate in the county is 63.9% compared to the NYS rate of 60.5% and the national average of 42.4%.
- **Heart Disease:** Heart disease is the leading cause of death in Chautauqua County with a rate of 215 per 100,000 compared to the NYS (excluding NYC) rate of 173 per 100,000.
- **Cancer:** Lung and bronchus mortality rates are higher than the state average in Chautauqua County. Between 2012-2016 the County had a rate of 53.2 per 100,000 for Males and 38.3 per 100,000 for Females. NYS rates were 44.5 per 100,000 for Males and 30.8 for Females.

These numbers demonstrate the local concerns related to public health and environmental challenges. Remediation of brownfield sites will lead to a reduction in exposure rates and improve the health within the area.

## **(3) Disproportionally Impacted Populations**

According to the U.S. Census Bureau's American Community Survey, the majority of Hispanic residents live in the County's urban areas: 40% residing in Dunkirk and 27% in Jamestown. The areas in these cities in which brownfield planning has occurred contain a mix of uses including senior housing, youth after school programs, and low-income housing. The population of these areas

consist of up to 81% low-income and 30% minorities. According the EPA’s Environmental Justice Mapper, many sections of Jamestown and Dunkirk are in the 95-100 percentile for housing built before 1960 with lead paint indicators and are in the 95-100 and 70-80 percentile, respectively, for hazardous waste proximity. Portions of Dunkirk are also in the 95-100 percentile for Risk Management Plans and 80-90 percentile for ozone. As a result, low-income populations and, specifically low-income Hispanics, are subject to a much higher rate of exposure. Populations such as seniors, children, and Hispanics are especially at risk for health effects due to past site uses.

## **Community Engagement**

### **2.b.i. Project Involvement & 2.b.ii. Project Roles**

This project will be implemented with the collaborative support of several local partners including: the Chautauqua County Division of Economic Development, the City of Dunkirk, the City of Jamestown, and the Chautauqua County Partnership for Economic Growth. Additionally, representatives from local government, civic groups, local agencies and members of the existing BOA Steering Committees will be involved in planning, and executing community engagement. The following project partners will assist with engagement:

<b>Partner Name</b>	<b>Contact</b>	<b>Description/Role</b>
County of Chautauqua Industrial Development Agency	Mark Geise CEO of the CCIDA geisem@co.chautauqua.ny.us (716) 661-8900	Project Lead; will establish and administer the EPA program
Chautauqua County Division of Economic Development	Nathan Aldrich Special Projects Coordinator aldrichn@co.chautauqua.ny.us (716) 661-8900	Support Brownfield identification, marketing, reuse, and redevelopment efforts across Chautauqua County
Chautauqua County Partnership for Economic Growth	Monica Simpson simpsonm@co.chautauqua.ny.us (716) 363-3770	Aligns local priorities to strategic opportunities; assists in brownfield marketing activities; assists in developer attraction efforts
City of Dunkirk	Rebecca Wurster rwurster@cityofdunkirk.com (716) 366-9879	Manages implementation of Dunkirk BOA.
City of Jamestown	Crystal Surdyk surdyk@cityofjamestownny.com (716) 483-7659	Manages implementation of Jamestown BOAs.
Southern Tier West Regional Planning & Development Board	Richard Zink rzink@southerntierwest.org (716) 945-5301	Supports federal funding requests, identifies priority projects for inclusion in the STW Comprehensive Economic Development Strategy (CEDS)
Chautauqua County Health Dept.	Christine Schuyler cchealth@co.chautauqua.ny.us 716-753-4312	Works to help address contamination issues at brownfield sites to protect health.

### **2.b.iii. Incorporating Community Input**

Public Participation was a central component to the creation of the three Brownfield Opportunity Areas in Chautauqua County. Community Engagement Plans were developed (and will be edited due to COVID 19) and will be continued to be implemented during the County’s

brownfield projects. An example of the CCIDA's outreach success include interfacing with dozens of community officials, residents, and stakeholders on a regular basis. The BOA brownfield planning efforts documented 100s of public meeting attendees over the course of the projects and over 100 responses through an online surveys regarding brownfield reuse planning. The Jamestown brownfield planning project also included a Developer Forum that brought together private developers with New York State economic and environmental agencies and local economic development agencies to introduce the brownfield reuse plans, discuss priority sites and their availability, and describe federal, state, and local assistance available to assist developers with tackling these challenging sites. Another goal of the Developer Forum was to obtain feedback on the plans from the private interests that would help implement those brownfield reuse plans.

For this grant, the CCIDA will prepare a new community engagement plan that will outline how project partners and the community at large will be kept informed through community meetings, local government meetings and other development-related meetings and events. During the times when Covid-19 remains a concern, meetings may be held via Zoom or other video linkage. The meetings will be structured to promote the EPA Program to neighborhood and community groups. These meetings will ensure that the community is aware of brownfield site assessment and cleanup activities being undertaken and how these activities fit into overall development plans. The meetings will feature discussions with the community groups to obtain feedback and direction on planning and related activities. During public engagement activities, minutes will be recorded and all materials created by the community will be tabulated, or photographed. A translator will be involved in the public meetings due to Dunkirk's Hispanic populations of 30.9%, which will ensure that the most at risk populations are being heard in regards to how to reuse brownfields to impact quality of life.

In addition to community meetings, an e-newsletter will be sent to project partners and interested community members. Additional activities will include:

- *Site Analysis Tours:* Multiple Distanced walking tours with 10 or less people including stops at brownfield sites to discuss conditions and reuse possibilities / plans.
- *Steering Committee Meetings:* Regular webinar meetings with involved community members to discuss community reuse alternatives and select strategic sites.
- *Press Releases:* News media releases and radio broadcasting services will be utilized to keep the public informed relative to program progress and upcoming meetings.
- *Social Media:* Facebook pages have been created for brownfield reuse feedback and will be utilized to notify the public of outreach for the duration of the EPA Grant.
- *The County will create an email account for this multipurpose grant to allow for a continuous loop of communication throughout the grant process where community members can ask questions and provide input on sites and brownfield planning,*

### **3. Task Description, Cost Estimates, and Measuring Progress**

#### **3a. Description of Tasks/Activities and Outputs**

##### **3a.i. Project Implementation**

**Task 1 – Cooperative Agreement Oversight and Consultant Selection:** Nathan Aldrich, CCIDA Economic Development Manager, will manage the grant to ensure all tasks are completed in a timely manner and within budget. In order to start work immediately upon execution of the Cooperative Agreement, following award of the grant but prior to the grant period, the CCIDA will solicit proposals from qualified environmental consultants via a publicly advertised bid process, consistent with 40 CFR 31.36. There is no cost for this task.

**Task 2 – Staff Training/Travel:** Although CCIDA staff has brownfield experience, they plan to enhance their understanding of brownfield issues via attendance at brownfield events, workshops and other programs such as the bi-annual EPA brownfields conference. The CCIDA’s current brownfield budget, rather than the EPA grant, will bear the costs of the training efforts.

**Task 3 – Reuse Planning, Site Prioritization and Community Outreach:** The brownfield inventories and prioritization processes employed in recent public meetings and surveys in the Dunkirk and Jamestown brownfield planning projects will be adopted. The CCIDA will incorporate additional brownfield sites into the inventory via community outreach efforts including meetings and updates to the CCIDA’s website, and use similar prioritization techniques for determining which sites should be proposed for assessment and remediation. For areas for which reuse planning has not yet occurred, the CCIDA will separately poll the various communities to identify new brownfield sites for inclusion in the inventory; work closely with community officials and residents to identify potential and viable reuse plans; and select priorities.

An expected output from this brownfield planning grant includes a detailed reuse plan and revised list priority sites, from which the sites will be selected for assessment and remediation under this EPA grant.

**Task 4 – Phase I Environmental Site Assessments:** Phase I ESAs will be completed in accordance with current ASTM Standards and EPA’s All Appropriate Inquiry. Phase I ESAs will be completed at as many brownfield properties as possible during this project, based on the actual costs of the ESAs. The funding requested for this task consists of consultant’s fees to conduct the Phase I ESAs (\$4,000/site for up to 50 sites, totaling \$200,000).

**Task 5 – Phase II Environmental Site Assessments:** Based on previous strategic planning and the Phase I ESAs that will be completed under Task 4, the CCIDA will select approximately 8 sites for further evaluation via the performance of Phase II ESAs. Phase II ESAs scope will vary and will depend on Phase I ESAs findings for each site, although each is expected to include drilling and/or excavation and the analysis of soil and/or groundwater samples. The funding requested for this task consists of \$400,000 for consultant’s fees to conduct the Phase II ESAs (\$50,000/site for up to 8 sites).

**Task 6 – Site Remediation:** Based on the strategic planning and the results of the Phase I and II ESAs, the CCIDA will select two sites for remediation. The remedial scope will depend on the levels, extents, and types of contamination present but will likely address impacts to soil, groundwater, sediment, surface water, and/or soil vapor. The work may include soil excavation and off-site disposal; placement of a clean soil cover; and/or groundwater remediation. The CCIDA intends to complete all remedial activities in conformance with New York State guidelines. The funding requested for this task consists of \$200,000 for consultant fees and contractor costs to remediate two sites (\$100,000/site for 2 sites).

### **3a.ii. Anticipated Project Schedule**

The CCIDA intends to complete the grant activities within the three-year period, as shown below:

<b>Task</b>
1-Cooperative Agreement Oversight and Consultant Selection
a. Cooperative agreement oversight completed throughout grant period: (10/21 to 9/24)
b. Solicitation of proposals and selection of consultant(s): (6/21 to 9/21)
2-Staff Training will be completed as events occur throughout the grant period: (10/21 to 9/24)
3-Planning, Prioritization, and Outreach
a. Brownfield reuse planning efforts conducted now through 6/23
b. Site prioritization to occur 5/21 to 6/23, including selection of sites for Phase I/II ESAs

c. Outreach efforts to be conducted every three to six months now to 9/24
4-Phase I ESAs <ul style="list-style-type: none"> <li>a. Submission of Property Approval Forms to EPA: 8 to 10 forms expected in 10/21, then quarterly until 6/23</li> <li>b. Preparation of Phase I ESAs: Two months each (some will be concurrent): 11/21 to 11/23</li> </ul>
5-Phase II ESAs <ul style="list-style-type: none"> <li>a. Submission of requests for EPA approval to conduct Phase II ESAs: 1/22 through 11/23 (immediately after each Phase I ESA completed)</li> <li>b. Completion of Phase II ESAs: Eight months each (some will be concurrent): 1/22 to 9/24</li> </ul>
6-Site Remediation <ul style="list-style-type: none"> <li>a. Site selection and remedial design: 4/22 through 12/22</li> <li>b. Completion of remediation and reporting: 1/23 to 6/24</li> </ul>

### **3a.iii Task/Activity Lead**

<b>Task</b>
1-Cooperative Agreement Oversight and Consultant Selection–Special Projects Coordinator
2-Staff Training–Special Projects Coordinator and other County staff
3-Planning, Prioritization, and Outreach–Lead is ultimately Special Projects Coordinator, while the planning activities are being conducted by a team of consultants (urban planners, environmental engineers, landscape architects, and an environmental attorney) that report to the Deputy County Executive for Economic Development.
4-Phase I ESAs–The environmental consultant/Environmental Professional selected in Task 1.
5-Phase II ESAs–The environmental consultant/Environmental Professional selected in Task 1.
6-Remediation–The environmental consultant/Environmental Professional selected in Task 1 and an environmental contractor(s) selected via a municipal bidding process.

### **3a.iv. Outputs**

<b>Task</b>
1-Cooperative Agreement Oversight and Consultant Selection <ul style="list-style-type: none"> <li>a. Quarterly, semi-annual, and annual reports</li> <li>b. Documented consultant selection process</li> </ul>
2-Staff Training-Event agendas, attendees’ lists, and written summaries of the seminars.
3-Planning, Prioritization, and Outreach <ul style="list-style-type: none"> <li>a. Brownfield reuse plan containing market analysis; brownfield site profiles; urban designs; conceptual reuse plans; and short-, mid-, and long-term reuse recommendations.</li> <li>b. Brownfield site inventory with prioritization criteria and ranking results.</li> <li>c. Agendas, presentations, minutes and sign-in sheets of public meetings, questionnaire results and other recorded public input.</li> </ul>
4-Phase I ESAs–Up to 50 Phase I Environmental Site Assessments
5-Phase II ESAs–Up to 8 Phase II Environmental Site Assessments, some of which may include remediation plans and cost estimates.
6-Site Remediation–Remediation of 2 Brownfield Sites.

### **3b. Cost Estimates**

The CCIDA is requesting \$800,000 to be used to complete Phase I/II ESAs and site remediation. While EPA grants can also be used for creating inventories and completing strategic

planning, the County has already undertaken these activities under the NYS BOA Program as well as a separate, County-wide brownfield planning program and intends to advance these activities under additional state grants and local funding. However, funding for ESAs or remediation is not available to the County or CCIDA, so the EPA grant will complement the planning activities undertaken under the state's planning program and the CCIDA's brownfield program. The CCIDA will provide \$40,000 in cash for the performance of planning and community outreach activities.

<b>Budget Categories</b>	<b>Task 1 Grant Oversight</b>	<b>Task 2 Staff Training</b>	<b>Task 3 Reuse Planning/ Outreach</b>	<b>Task 4 Phase I ESAs</b>	<b>Task 5 Phase II ESAs</b>	<b>Task 6 Site Remediation</b>	<b>Total</b>
Contractual	\$0	\$0	\$40,000	\$200,000	\$400,000	\$200,000	\$800,000
Total Direct Costs	\$0	\$0	\$40,000	\$200,000	\$400,000	\$200,000	\$850,000
Total Federal Funding	\$0	\$0	\$0	\$200,000	\$400,000	\$200,000	\$800,000
Local Cost Share	\$0	\$0	\$40,000	\$0	\$20	\$0	\$0
Total Budget	\$0	\$0	\$40,000	\$200,000	\$400,000	\$200,000	\$840,000

The Phase I ESA costs were based on a range given by local environmental consulting firms. The Phase II ESA costs were based on discussions with a local environmental consulting firm assuming the following generic scope of work: preparation of Quality Assurance Project Plan; two days of exploratory soil test pits; two days of soil borings; collection and analysis of surface and subsurface soil samples; installation and sampling of four monitoring wells; data validation; and preparation of Phase II ESA report. Remediation cost estimates are based on estimates from local environmental consulting firms for consultant fees for remedial planning, oversight, and reporting (\$25,000), and contractor fees for mobilization, soil excavation, certified clean backfill transportation and disposal, certified clean soil cover, and site restoration (\$75,000).

### **3c. Measuring Environmental Results: Anticipated Outputs/Outcomes**

The CCIDA anticipates several outcomes and outputs from the successful implementation of the EPA program. The CCIDA will track the following outputs including the number of Phase I/II ESAs completed, the numbers and acreage of brownfields remediated, the amount of the budget utilized, project schedule, and number of public meetings held and community members in attendance. These will be recorded in periodic reports submitted to the EPA as well as the following outputs:

- The number and size of greenspaces created on former brownfield sites.
- Green infrastructure in terms of areas created and estimated volume of annual runoff.
- The type and extent of contaminants and the types and volumes of remediated media.
- The acreage of brownfield property that is remediated.
- The amount of private investment funds used to redevelop sites.
- The number of jobs created on remediated brownfield sites.
- Increased tax revenue for the cities and County overall.
- Number and size of parcels converted to green energy.

## **4. Programmatic Capability and Past Performance**

### **4a. Programmatic Capability**

#### **4.a.i. Organizational Structure & 4.a.ii. Description of Key Staff**

The CCIDA is an economic development organization authorized by the State of New York and Chautauqua County. Governed by an eight member Board of Directors, the agency which has an operating budget of \$2.2 million, has nine staff with the organizational capacity to effectively manage this grant. The CCIDA provides incentives in the form of low interest loans and tax abatements to companies who create and retain jobs by relocating, expanding, or reinvest in their facilities. The CCIDA works collaboratively with the County, municipalities, and partner agencies to increase the tax base, promote job creation, and economic development.

Nathan Aldrich, Economic Development Manager, will serve as the Project Manager, with efforts related to brownfield marketing and redevelopment. Mr. Aldrich has a Master's in Urban Planning with a specialization in Economic Development from the University at Buffalo. He has been working in planning/development related roles in Chautauqua County for 5+ years and offers expertise in planning, economic development, and real estate development.

#### **4.a.iii. Acquiring Additional Resources**

When additional expertise is required during the assessment, such as Qualified Environmental Professionals (QEPs), the County will use a competitive procurement process, consistent with 40 CFR 31.36, to select a contractor/consultant to assist with environmental assessment, remediation, and other necessary activities.

#### **4.b. Past Performance and Accomplishments**

##### **4.b.1 Purpose and Accomplishments**

The CCIDA administers the Al-Tech Revolving Loan Fund (RLF), which was established in 1976 by a \$10,000,000 grant from the U.S. Department of Commerce Economic Development Administration. The purpose of the AL Tech RLF is to foster and maintain economic growth in Chautauqua County by means of investments that stimulate job retention and creation, and overall job sustainability and growth. This is done by either assisting existing business or industry or providing much needed seed capital to start-up ventures or low interest financing for more established firms. Based on its track record and A Plus rating of the Al Tech RLF, in 2020, the CCIDA invited to apply and was then subsequently awarded a \$10.5 million grant from the U.S. Department of Commerce Economic Development Administration to establish a supplemental RLF to aid in economic recovery brought on by the coronavirus (COVID-19). This award was the largest CARES Act award in Western and Central NY. The CCIDA also administers the Chautauqua Revolving Loan Fund (CRLF) which has lent over \$10,000,000 since its inception in 1992. Both of these RLFs have resulted in the creation and retention of thousands of jobs and millions in private investment in Chautauqua County. With decades of experience in administering RLFs, the CCIDA is prepared to facilitate brownfield remediation and redevelopment by overseeing a RLF dedicated to brownfields clean-up activities. In addition to these programs, the CCIDA has experience in administering several other state, federal, private foundation grants for infrastructure development, planning, community, and economic development purposes.

##### **4.b.2 Compliance with Grant Requirements**

The CCIDA has an extensive experience in administering small to large-scale, federal- and state-funded projects. The CCIDA will take the lead on the programming/administering of the grant. The County has no adverse audit, and carries the full ability to oversee all grant work. All previous grants have been administered in compliance, while completing monitoring, progress reports, and disbursement requests, along with any other required paperwork or resource, while adhering to the approved budget and timeline. The County tracks progress by measuring and evaluating objectives and goals on a quarterly basis.



## Threshold Criteria

**1. Applicant Eligibility:** The Chautauqua County Industrial Development Agency (CCIDA) is eligible to apply for this multipurpose grant, as the CCIDA is an economic development organization authorized and empowered by the State of New York. Documentation is attached that certifies the CCIDA's status.

**2. Community Involvement:** The CCIDA will prepare a community engagement plan that will outline how project partners and the community at large will be kept informed through community meetings, local government meetings and other development-related meetings and events. During the times when Covid-19 remains a concern, meetings may be held via Zoom or other video linkage. The meetings will be structured to promote the EPA Program to neighborhood and community groups. These meetings will ensure that the community is aware of brownfield site assessment and cleanup activities being undertaken and how these activities fit into overall development plans. The meetings will feature discussions with the community groups to obtain feedback and direction on planning and related activities. During public engagement activities, minutes will be recorded and all materials created by the community will be tabulated, or photographed. For meetings focusing on the Cities of Dunkirk and/or Jamestown, which both have significant Hispanic populations, a Spanish interpreter will be available.

In addition to community meetings, an e-newsletter will be sent to project partners and interested community members. Additional activities will include:

- *Site Analysis Tours:* Multiple Distanced walking tours with 10 or less people including stops at brownfield sites to discuss conditions and reuse possibilities / plans.
- *Steering Committee Meetings:* Regular webinar meetings with involved community members to discuss community reuse alternatives and select strategic sites.
- *Press Releases:* News media releases and radio broadcasting services will be utilized to keep the public informed relative to program progress and upcoming meetings.
- *Social Media:* Facebook pages have been created for brownfield reuse feedback and will be utilized to notify the public of outreach for the duration of the EPA Grant.

**3. Target Area:** The Grant Target Area is comprised of the entire County with a focus on the Cities of Dunkirk and Jamestown. Chautauqua County is comprised of two cities, 27 towns, 13 villages, as well as more than a dozen hamlets and other smaller communities. The population is concentrated in two post-industrial and waterfront cities, Dunkirk and Jamestown, with populations of 11,756 and 29,058, with the remainder in small towns and villages. To select one neighborhood from this County-wide approach, one focus area will be the area of the City of Dunkirk that surrounds the former Al-Tech Steel Site. This site was once part of a steel-making economy that relied on Dunkirk's proximity to Lake Erie as well as a network of rail. Single family housing was constructed for the facilities workers and surrounds the large brownfield site. Following the decline of the US steel industry, dozens of contaminated acres were the legacy of the once-thriving industry. A New York State funded Brownfield Opportunity Area grant was used to plan for the reuse of this and other properties. The EPA Multi-Purpose Grant will help make that a reality.

**4. Affirmation of Brownfield Site Ownership:** The CCIDA owns a site(s) that meet the CERCLA 101(39) definition of a brownfield criteria. The site(s) is not listed on the National Priorities List; is not subject to unilateral administrative orders, court orders, administrative orders

on consent, or judicial consent decrees issued to or entered into by parties under CERCLA; and is not subject to the jurisdiction, custody, or control of the U.S. government. The CCIDA will provide documentation of ownership when sites are selected for remediation under this EPA grant.

**5. Use of Grant Funds:** The plan to conduct assessment and cleanup activities and to develop an overall plan for revitalization of the target area can be found on page 9 of the narrative and the budget table can be found on page 11.

**6. Required Cost Share:** The required cost share of \$40,000 will be provided from the CCIDA in the form of a contribution of Cash toward the contractual costs of Task 3 Reuse Planning/Outreach. The CCIDA has set aside a similar budget amount for brownfield efforts undertaken during previous years.

[PREV](#)

[SECTION 895-F](#)

[County Of Clinton Industrial Development Agency. \(/Legislation/Laws/GMU/895-F/\)](#)

[NEXT](#)

[SECTION 895-I](#)

[Steuben County Industrial Development Agency. \(/Legislation/Laws/GMU/895-I/\)](#)

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## Section 895-H

County of Chautauqua industrial development  
agency  
General Municipal (GMU)

SHARE



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1. For the benefit of the county of Chautauqua and the inhabitants thereof, an industrial development agency, to be known as the COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of this article. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of this article upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, other than in furtherance of the power conferred by subdivision two of this section, shall be limited to the corporate limits of the county of Chautauqua and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of this article. Its members shall consist of not less than three nor more than nine members as follows: the chairman of the committee of the governing body of the county of Chautauqua that has primary responsibility for dealing with the economic welfare of the county, who shall serve as an ex officio

member with full voting powers; one member appointed by the governing body of the county of Chautauqua, subject to the approval or veto of the county executive and county legislative reconsideration as provided in the charter of such county; and up to seven members appointed by the county executive subject to confirmation by the governing body of the county of Chautauqua. The agency, its members, officers and employees and its operations and activities shall, except as provided specifically herein, be governed by the provisions of title one of this article.

2. In addition to the powers and duties now or hereafter conferred by title one of this article, the agency shall have the power (i) to acquire, construct, own, maintain, and lease or sell to a railroad or private business corporation any interest in railroads operated wholly or partially within Chautauqua county, including easements or rights-of-way, necessary switching apparatus, track, and other equipment necessary or convenient to the operation of such railroad, which will be used in conjunction with industrial, manufacturing, commercial or warehousing operations and (ii) to finance such facilities through the issuance of its bonds and notes, when in the judgment of the agency, such facilities will serve to promote, develop and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, and research facilities including industrial pollution control facilities and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state and improve their prosperity and standard of living. The powers conferred pursuant to this subdivision with respect to the acquisition of real property shall not include the acquisition of real property by condemnation.

Notwithstanding the taxable status date set forth in section three hundred two of the real property tax law or any other provision of law to the contrary, if, prior to September fifteen, nineteen hundred ninety-five, the agency acquires ownership, jurisdiction, supervision or control of any portion of the railroad line known as the "Southern Tier Line," which is located between the New York-Pennsylvania state line in the county of Chautauqua and the city of Hornell, and complies with all other applicable

provisions of law pertaining to the filing of an application for exemption, such property and the agency's activities with respect thereto shall be entitled to exemption from taxes or assessments as otherwise provided by law, except for nineteen hundred ninety-five--ninety-six school taxes levied prior to September fifteen, nineteen hundred ninety-five. The tax exemption conferred pursuant to this subdivision shall be subject to the prior consent of the affected tax jurisdictions that are located outside the county of Chautauqua, and shall not apply to special ad valorem levies and special assessments.

\* NB Agency expires per §§ 856 and 882

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[PREV](#)

[SECTION 895-F](#)

[County Of Clinton Industrial Development Agency\\_\(/Legislation/Laws/GMU/895-F/\)](#)

[NEXT](#)

[SECTION 895-I](#)

[Steuben County Industrial Development Agency\\_\(/Legislation/Laws/GMU/895-I/\)](#)



**Phillips Lytle LLP**

January 22, 2020

County of Chautauqua Industrial Development  
Agency  
201 West Third Street, Suite 115  
Jamestown, NY 14701  
Attn: Richard Dixon, CFO

Re: County of Chautauqua Industrial Development Agency (the "Agency")

Dear Mr. Dixon:

Reference is made to that certain RFP for FY20 Brownfield Revolving Loan Fund Grants (RFP No. EPA-OLEM-OBLR-19-06) (the "RFP"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the RFP.

You have asked us to examine whether the Agency is permitted by New York law to accept and hold the grant funds from the EPA contemplated by the RFP and to distribute those grant funds to private parties in the form of loans or subgrants to such parties. You have also asked us to examine whether the Agency is permitted by New York law to manage a revolving loan fund.

Section 858(11) of the New York State General Municipal Law (the "GML") states that industrial development agencies ("IDA's"), such as the Agency, have the power to "accept, gifts, grants, loans or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity." Accordingly, it is clear that the Agency has the power to accept the grant from the EPA, as an agency of the United States, pursuant to the grant documents issued pursuant to the RFP.

Section 858(11) of the GML also provides that IDA's have the power to "use any such gifts, grants, loans or contributions for any of its corporate purposes."

Doc # 05-371572.1

ATTORNEYS AT LAW

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January 22, 2020

Although Section 858(11) of the GML does not explicitly address whether IDA's may accept grant funds from other governmental agencies and then distribute such funds to private parties in the form of loans or subgrants, various state agencies with oversight of IDA's have issued opinions addressing similar facts.

In 1979, the Office of the New York State Comptroller (the "OSC") was asked by an IDA whether a federal grant that was transferred by a municipal corporation could be loaned by the IDA to a real estate developer for the purpose of building a factory. The OSC opined that "by virtue of the broad grant of powers contained in section 858 and by implication from the express powers contained in section 858(11), [an IDA] has the authority to loan its funds to a developer for investment in a factory" (1979 Op. St. Comptr. No. 79-279) ("Opinion 79-279").

In 1982, the OSC issued an opinion clarifying Opinion 79-279. The OSC noted that Opinion 79-279 dealt with a situation in which the IDA was loaning federal grant funds not loaning *its* own funds (1982 Op. St. Comptr. No. 82-360) ("Opinion 82-360"). In Opinion 82-360, an IDA was seeking an opinion as to whether it could loan its own funds to a local development corporation. The OSC opined that there is no express authority for an IDA to loan its own moneys but added that where an IDA received a federal grant, the "loan of such grant moneys where the loan is consistent with the terms of the grant [is] specifically authorized by section 858(11)." The OSC also went on to question whether the loan in question would be in furtherance of a proper industrial development agency purpose and took the position that the purpose of the loan must be "the promotion of employment opportunities and the prevention of economic deterioration in the area served by the IDA."

In addition, the OSC issued an earlier opinion in which an IDA received grant funds from the federal government and served as "the administrator of the grant moneys." In its Opinion 79-784, the OSC noted that no Agency funds were used and that the IDA administered loans of those funds to persons and entities that were making energy-saving physical improvements for industrial and commercial facilities. The OSC opined that such an arrangement was authorized by Section 858(11) provided that the Agency determined that administering the federal loan program would serve its corporate purposes.

Based on the foregoing authorities, the New York State Authorities Budget Office (the "ABO") issued its Policy Guidance No. 15-01, which states that an IDA "may only accept loans, grants and contributions from federal, state or other public sources and expend or pass through those





January 22, 2020

funds consistent with the public purpose of the [IDA] and statutory or programmatic limitations imposed on the use of those funds.”

Based solely on the foregoing authorities, we are of the view that the Agency is empowered by the GML to accept and hold a grant of federal funds and to loan or pass through (i.e., subgrant) such funds to a private entity, provided that (i) the loan or subgrant is consistent with the purposes of and expressly authorized by the terms of the federal grant, and (ii) the loan or subgrant and the use of the proceeds thereof by the borrower are in furtherance of a permitted IDA purpose under the GML.

In furtherance of the foregoing activities and subject to the foregoing provisos, we are of the view that the Agency is (i) authorized to enter into loan agreements pursuant to Section 858(9) of the GML which provides that IDA's are authorized “to make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private” and Section 858(11) which provides that IDA's are authorized “to accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States ... and to use any such gifts, grants loan or contributions for any of its corporate purposes”, and (ii) authorized to access and secure sites in the event of an emergency or default of such loan agreements or nonperformance of a subgrant pursuant to Section 858(4) of the GML, which provides that IDA's are authorized to “acquire by purchase, grant, lease, gift, pursuant to the provisions of eminent domain procedure law, or otherwise and to use, real property or easements therein necessary for its corporate purposes.”

In addition, in furtherance of the foregoing activities and subject to the foregoing provisos, we are of the view that the Agency is authorized to manage a revolving loan fund, the funds for which are obtained solely from the grant issued pursuant to the RFP, provided that (i) the loans made pursuant to the RLF are consistent with the purposes of and expressly authorized by the terms of the federal grant, and (ii) such loans and the use of the proceeds thereof by the borrower thereof are in furtherance of a permitted IDA purpose under the GML. If the Agency is authorized to manage the revolving fund, then we are of the view that the cited authorities include authorization to hold the revolving loan funds, administer the loans made pursuant to the term of the grant, enter into loan agreements for such loans, and collect repayments of the loans made pursuant to the revolving loan fund.

The matters expressed in this letter are subject to the following qualifications: (i) we are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any facts supplied with respect to this letter and make no representation that we have



County of Chautauqua Industrial Development Agency  
Page 4

January 22, 2020

independently verified the accuracy, completeness or fairness of any such facts, (ii) the conclusions expressed herein are limited to the date hereof, and we undertake no obligation in any event to advise the Agency of any facts or circumstances occurring or coming to our attention subsequent to the date hereof or to update or modify the views expressed herein with respect to changes in the laws or transactions which occur after the date of this letter, (iii) the conclusions expressed herein are limited to a review of the RFP, Article 18-A of the GML and publicly available caselaw and opinions, (iv) we have not received or reviewed the terms of the cooperative agreement and the other documents that would be issued by the EPA pursuant to the RFP and, therefore, are not opining as to the effect such documents might have on the conclusions expressed in this letter, and (v) we are counsel admitted to practice only in the State of New York, and we express no opinion as to the laws of any jurisdiction other than the above-described laws of the State of New York.

This opinion may be relied upon by you in connection with the transactions contemplated by the RFP but may not be relied upon by any other person (other than the United States Environmental Protection Agency in connection with awarding the grant under the RFP) or used for any other purpose without our prior written consent.

Please call us if you have any questions.

Very truly yours,



Figure 1. Chautauque County is located along Lake Erie in western New York.



## Application for Federal Assistance SF-424

\* 1. Type of Submission:

- ☐ Preapplication  
☒ Application  
☐ Changed/Corrected Application

\* 2. Type of Application:

- ☒ New  
☐ Continuation  
☐ Revision

\* If Revision, select appropriate letter(s):

\* Other (Specify):

\* 3. Date Received:

10/28/2020

4. Applicant Identifier:

Brownfield Multipurpose Grant

5a. Federal Entity Identifier:

52-1285016

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

Choose State...

### 8. APPLICANT INFORMATION:

\* a. Legal Name:

County of Chautauqua Industrial Development Agency

\* b. Employer/Taxpayer Identification Number (EIN/TIN):

\* c. Organizational DUNS:

8252143020000

d. Address:

\* Street1:

201 West Third St.

Street2:

\* City:

Jamestown

County/Parish:

Choose State...

\* State:

NY: New York

Province:

\* Country:

USA: UNITED STATES

\* Zip / Postal Code:

14701-4972

e. Organizational Unit:

Department Name:

CCIDA

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Mr.

\* First Name:

Nathan

Middle Name:

Economic

\* Last Name:

Aldrich

Suffix:

Title:

Economic Development Manager

Organizational Affiliation:

County of Chautauqua Industrial Development Agency

\* Telephone Number:

7163633672

Fax Number:

\* Email:

aldrichn@co.chautauqua.ny.us

## Application for Federal Assistance SF-424

### \* 9. Type of Applicant 1: Select Applicant Type:

B: County Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

### \* 10. Name of Federal Agency:

Environmental Protection Agency

### 11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

### \* 12. Funding Opportunity Number:

EPA-OLEM-OBLR-20-05

\* Title:

FY21 GUIDELINES FOR BROWNFIELD MULTIPURPOSE (MP) GRANTS

### 13. Competition Identification Number:

Title:

### 14. Areas Affected by Project (Cities, Counties, States, etc.):

1234-Chautauqua County Map.PNG

Add Attachment

Delete Attachment

View Attachment

### \* 15. Descriptive Title of Applicant's Project:

Advancing brownfield cleanup and reuse efforts in Chautauqua County, New York through brownfield planning, community outreach, Environmental Site Assessments, and site remediation.

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424****16. Congressional Districts Of:**

\* a. Applicant 23rd

\* b. Program/Project 23rd

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**

\* a. Start Date: 10/01/2021

\* b. End Date: 06/30/2024

**18. Estimated Funding (\$):**

* a. Federal	800,000.00
* b. Applicant	40,000.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	840,000.00

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .
- ☒ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ \*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix: Mr. \* First Name: Richard

Middle Name:

\* Last Name: Dixon

Suffix:

\* Title: CFO

\* Telephone Number: 7166618905 Fax Number: 

\* Email: dixonr@co.chautauqua.ny.us

\* Signature of Authorized Representative: Richard Dixon \* Date Signed: 10/28/2020